

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****BAIL APPLICATION NO. 2737 OF 2018**

Nilesh Somnath Tumbade & Anr.

....Applicants.

Vs.

The State of Maharashtra

....Respondent.

Mr. Rohit Karhadkar for the Applicants.

Mr. Ajay Patil APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.

DATE : 18th DECEMBER, 2018.

P.C.:-

This is an Application under Section 439 of the Code of Criminal Procedure for bail in C.R. No.67 of 2018 dated 23rd May, 2018, 2018 registered with Ojhar Police Station, District Nashik under Sections 354, 354-D, 452, 324, 504 and 506 of the Indian Penal Code and under Section 4 of the Protection of Children from Sexual Offences Act.

2 Heard the learned counsel appearing for the Applicants and the learned APP. Perused the charge-sheet.

3 The first information report is lodged by the prosecutrix who was aged about 16 years and 11 months on the date of lodgment of the crime and with a view to protect her identity and in consonance

with the provisions of Section 228(A) of the Indian Penal Code and Section 33(7) of the POCSO Act, the detailed narration of facts mentioned in the first information report and in the statement of the prosecutrix is hereby avoided.

4 It is the prosecution case that, on 21st May, 2018, when the prosecutrix was alone in her house and was having a nap in the afternoon. At about 3.00 p.m. the Applicants along with other 2 accused persons namely Kiran Gaikwad and Sanjay Rathod entered in her house and tried to outrage her modesty. When the prosecutrix started shouting for help, the Applicants prevented her from escaping from the house. During the course of investigation, the Applicants came to be arrested on 8th August, 2018 and after completion of investigation, the police have submitted charge-sheet.

5 The record indicates that, for the same incident, the prosecutrix, on 22nd May, 2018 had lodged one N.C. complaint with the police under Section 323, 504 and 506 of the Indian Penal Code wherein, the names of Kiran Gaikwad and Sanjay Rathod are mentioned. The names of the Applicants are not appearing in the said N.C. complaint. The present crime is registered thereafter on 23rd May, 2018, with inclusion of names of the Applicants.

Apart from the aforestated facts, the allegation *qua* the Applicants is that, they caught hold the hands of the prosecutrix and prevented her from escaping from her house.

6 As noted earlier, the investigation of the present crime *qua* the Applicants has already been completed by the Police and the Police have submitted charge-sheet. No purpose will be served by further keeping the Applicants in incarceration.

7 In view of the above, the Applicants can be released on bail.

Hence the following order:-

- a) The Applicants be released on bail in C.R. No.67 of 2018 dated 233rd May, 2018, 2018 registered with Ojhar Police Station, District Nashik on their furnishing PR bond of Rs.15,000/- each with one or two local sureties in the like amount.
- b) After their release from Jail, the Applicants shall attend the Ojhar Police Station, District Nashik on every first Monday of the month between 10.00 a.m. and 12.00 noon.

- c) The Applicants shall attend all the dates before the Trial Court unless precluded on medical grounds.
- d) The Applicants shall not tamper with the evidence and/or pressurize the prosecution witnesses.

8 Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)